

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA**

MARTIN P. KIEFABER, on behalf of himself and  
all others similarly situated,

Plaintiff,

vs.

HMS NATIONAL, INC., and 1<sup>ST</sup> CHOICE, INC.  
(d/b/a RE/MAX ALLEGIANCE),

Defendants.

Civil Case No. 1:10-cv-1194

**JOINT DISCOVERY PLAN**

The undersigned counsel for the parties have conferred to consider the nature and basis of their claims and defenses, as described in their respective pleadings, to consider the possibilities for prompt settlement or resolution of this case, to arrange for the disclosures required by Rule 26(a)(1) of the Federal Rules of Civil Procedure, and to develop a proposed discovery plan, which is as follows:

1. **Initial Disclosures.** Rule 26(a)(1) disclosures shall be made on or before **August 31, 2011.**

2. **Discovery Generally.** Discovery is needed on the allegations of the Complaint as well as the denials and defenses contained in the Answer. All discovery shall be commenced in time to be completed by **December 9, 2011.**

3. **Discovery of Electronically-Stored Information.** Counsel have discussed with their clients their obligations regarding preservation of discoverable information, and will propose a separate stipulated ESI protocol to the Court. In no event shall any party refrain from preserving or collecting documents for production based on the fact that the parties have not yet entered into a stipulation.

4. **Protective Order.** The parties have previously submitted, and the Court has entered, a protective order concerning the treatment of confidential information.

5. **Privilege Log.** The parties agree that they will produce privilege logs as soon as practicable in connection with their production of documents.

6. **Expert Disclosures.** The disclosures required by Fed. R. Civ. P. 26(a)(2) shall be made first by any plaintiff, no later than **October 10, 2011**. The disclosures required by Fed. R. Civ. P. 26(a)(2) shall be made by Defendant no later than **November 9, 2011**. Plaintiff shall disclose any evidence that is solely contradictory or rebuttal evidence to another party's disclosure no later than **November 24, 2011**.

7. **Witness and Exhibit Lists.** The parties shall electronically file prior to the Final Pretrial Conference on **December 15, 2011** the Fed. R. Civ. P. 26(a)(3) disclosures and a list of exhibits to be used at trial, a list of the witnesses to be called at trial, and a written stipulation of uncontested facts.

8. **Exhibits.** Each party shall exchange the exhibits it intends to use at trial, or copies thereof, with the opposing party before the Final Pretrial Conference.

9. **Objections to Exhibits.** Objections to exhibits must be filed no later than **December 27, 2011**; otherwise the exhibits shall stand admitted in evidence. Original exhibits shall be delivered to the Clerk in the time and manner specified by Local Rule 79(A).

10. **Trial.** The parties expect that this matter may be tried in approximately four days, with two days for the Plaintiff and two days for the Defendant. At this time, the parties do not consent to have a United States Magistrate Judge conduct the trial of this matter.

Dated: August 17, 2011

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